

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
MK LAND HOLDINGS LLC ZONE CHANGE REQUEST  
ZONING MAP AMENDMENT REPORT #FZC-10-06  
SEPTEMBER 29, 2010**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by MK Land Holdings LLC for a zoning map amendment in the Evergreen Zoning District. The proposed amendment would change the zoning on portions of the subject properties from R-2 One Family Limited Residential to B-2 General Business.

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on October 13, 2010 in the 2<sup>nd</sup> Floor Conference Room, 1035 1<sup>st</sup> Ave West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will also hold a public hearing on the proposed zoning map amendment at a date and time yet to be determined. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office, Earl Bennett Building, 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendment will also be available for public inspection in the Flathead County Clerk and Records Office, 800 South Main Street, in Kalispell.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

The proposed amendment is not within the jurisdiction of any local land use advisory committee or local land use council.

**B. Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed amendment on October 13, 2010 at 6:00 PM in the 2nd Floor Conference Room, 1035 1st Ave West, Kalispell and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board's discussion and recommendation.

**C. Commission**

The Flathead County Commissioners will hold a public hearing on the proposed amendment on a date to be determined. This space is reserved for a summary of the Commission's discussion and decision.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant**

MK Land Holdings LLC  
1347 Highway 2 East  
Kalispell, MT 59901

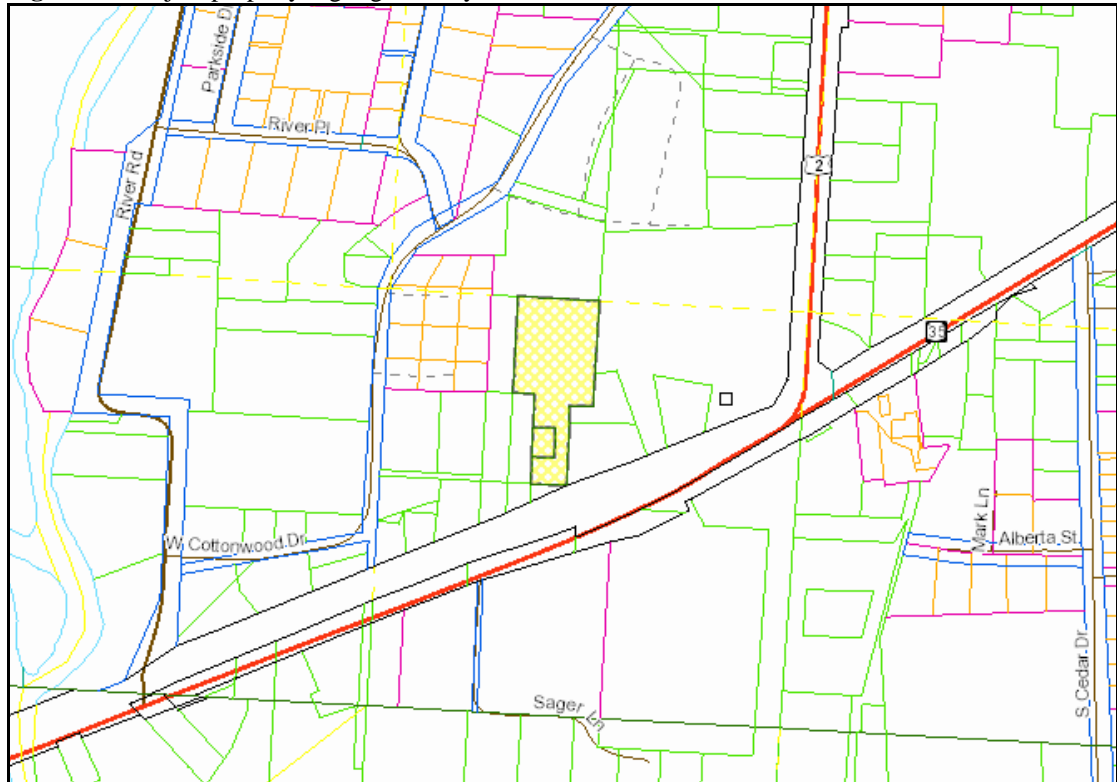
**ii. Technical Assistance**

Marquardt & Marquardt Surveying, Inc.  
201 3<sup>rd</sup> Avenue West  
Kalispell, MT 59901

## B. Subject Property Location and Legal Description

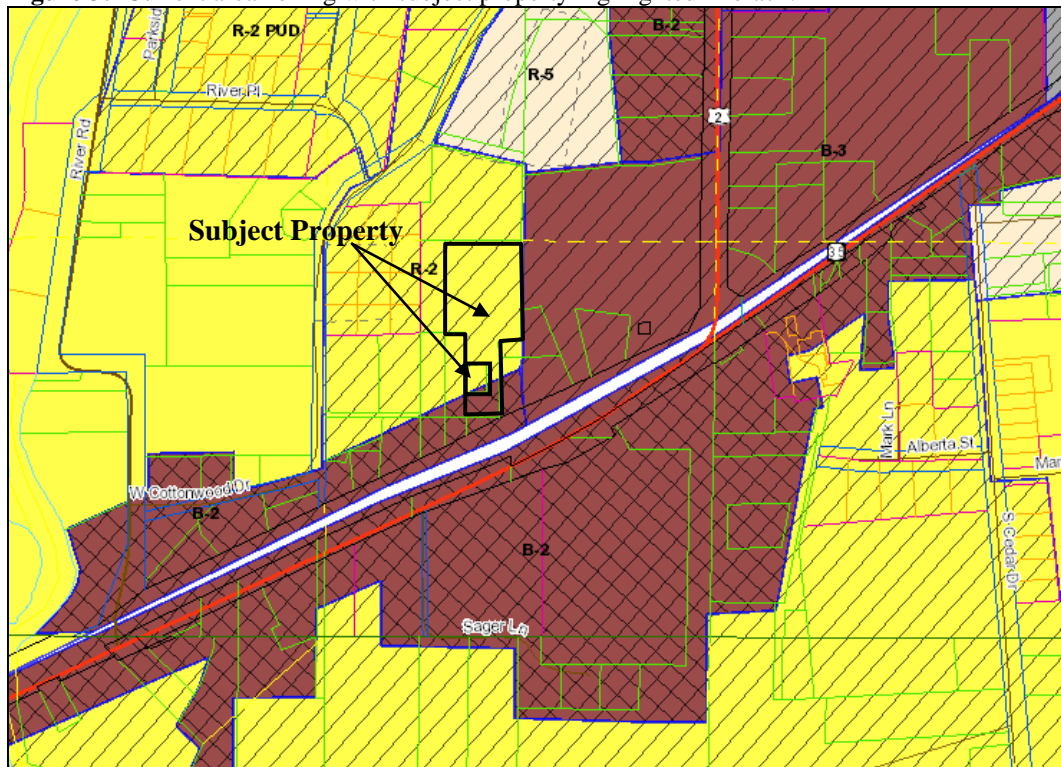
The properties for which the zoning map amendment is sought are located on the north side of U.S. Highway 2, roughly 800 feet west of the intersection of U.S. Highway 2 with Montana Highway 35 (see Figure 1 below). The properties can be legally described as Tracts 8 and 8D in Section 4, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana. As the southern areas of Tracts 8 and 8D are already zoned B-2 the requested zone change regards only a portion of both tracts, with acreage involved in the request being approximately 0.59 acres (see Figures 3 and 4 below).

**Figure 1:** Subject property highlighted in yellow.

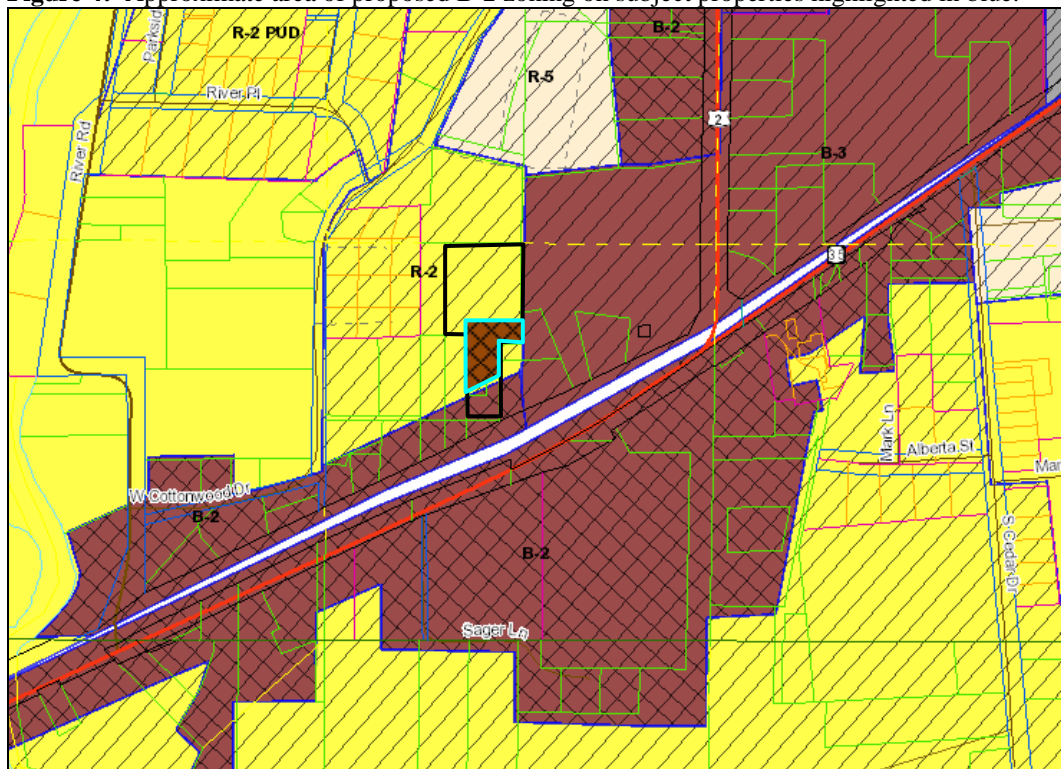


The subject properties are located in the Evergreen Zoning District, with southerly portions of Tracts 8 and 8D being currently zoned B-2 General Business and the remaining northerly portions of both tracts being currently zoned R-2 One Family Limited Residential (see Figure 3 below). R-2 One Family Limited Residential is defined as “*A district to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines.*” The proposed zoning map amendment would change the zoning use designation on certain portions of both tracts from R-2 One Family Limited Residential to B-2 General Business, defined as “*A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler*” (see Figure 4 below).

**Figure 3:** Current area zoning with subject property highlighted in black.



**Figure 4:** Approximate area of proposed B-2 zoning on subject properties highlighted in blue.



#### **D. General Character of and Reason for Amendment**

Tract 8 of the subject property is comprised of two different types of physical settings: 1) the northern and central portion abutting adjacent residential areas is low-lying undeveloped riparian area with standing water and well established cattail wetland vegetation; and 2) the southern ‘filled’ area which is accessed by U.S. Highway 2 and which abuts the highways associated commercial strip area. When the current B-2 zoning was adopted it was established as a 130 foot deep strip running parallel to the northern edge of the highway right-of-way. As a result of the zoning’s configuration a relatively small area of the subject properties adjacent to U.S. Highway 2 is zoned B-2 General Business, and the remaining functional ‘filled’ area, currently requested for re-zoning, was established as R-2 One Family Limited Residential (refer to Figure 3 above).

The B-2 zoned area of the subject property is developed with an existing commercial business/structure (currently operated as a salon) and a used car dealership. The applicant has applied for a zoning map amendment from R-2 One Family Limited Residential to B-2 General Business to gain the ability to use the additional functional ‘filled’ area of the subject properties for commercial purposes which would be compatible with adjacent uses and the character of its highway access in conformance with applicable zoning.

#### **E. Adjacent Zoning and Character of the Overall Zoning District**

Adjacent to U.S. Highway 2, the subject properties and abutting properties to the south, east, and west are developed in a manner consistent with highway commercial strip development. As described above, Tract 8 consists of an area of higher ground (filled area) located on the south side of a wetland depression feature which is densely vegetated with cattail and other riparian vegetation. The surrounding areas to the west and north of the wetland/riparian portion of the subject property are developed for single family residential uses and are zoned R-2. The surrounding areas to the south, east, and west of the portion of the subject properties requested for the zoning amendment are developed for retail/commercial purposes and are zoned B-2 General Business and B-3 Community Business (refer to Figures 2&3 above).

When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a brief review of the three-part test in relation to this application.

##### *1. The zoning allows a use that differs significantly from the prevailing use in the area.*

A zoning amendment from R-2 One Family Limited Residential to B-2 General Business on portions of the subject properties would allow uses on those areas of the subject property that differ from the prevailing residential uses allowed under the existing R-2 zoning. However, portions of the subject properties are currently zoned B-2 and developed accordingly, and the portions of the subject properties

proposed for B-2 zoning occur in an area where the prevailing uses are for commercial/business purposes. The subject property is directly adjacent to properties currently zoned B-2 and B-3, and allowed uses of the proposed zone change would not differ from the prevailing uses allowed under the existing adjacent B-2 and B-3 zoning.

2. *The zoning applies to a small area or benefits a small number of separate landowners.*

The zoning map amendment would apply to a relatively small area (0.59 acres) and would only benefit the applicant.

3. *The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.*

While the zoning map amendment would apply to and benefit one owner of property, this benefit is not likely to occur at the expense of the surrounding landowners as surrounding properties adjacent to the proposal site are similarly situated and developed in relation to the highway and the applicable zoning.

In summary, the proposed zoning map amendment is not likely considered spot zoning because it meets only one out of three criteria. All three criteria must be met for the application to potentially be considered spot zoning.

#### **F. Public Services and Facilities**

Sewer:	Existing individual septic system
Water:	Existing individual well
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy (if available)
Telephone:	CenturyTel
Schools:	Evergreen School District (K-8), Flathead High School (9-12)
Fire:	Evergreen Fire District
Police:	Flathead County Sheriff's Office

#### **G. Criteria Used for Evaluation of Proposed Amendment**

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

#### **H. Compliance With Public Notice Requirements**

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject properties on September 9, 2010. Legal notice of the Planning Board public hearing on this application will be published in the September 26, 2010 edition of the Daily Interlake.



Following the Planning Board hearing on October 13, 2010, notice of the Flathead County Commissioners public hearing of the requested zoning map amendment will be physically posted on the subject properties and within the zoning district according to statutory requirements found in Section 76-2-205 M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the date, time and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

### **I. Agency Referrals**

Referrals were sent to the following agencies on August 26, 2010:

- Flathead County Public Works/Flathead County Road Department
  - Reason: Development of subject property may have bearing on public works infrastructure or matters.
- Montana Department of Transportation (MDT)
  - Reason: Access to the subject property is via U.S. Highway 2, controlled by MDT.
- Flathead City-County Health Department; Environmental Health Services
  - Reason: Subject property apparently uses a private individual well and septic system which may require review by the Environmental Health Department should any additional development occur as a result of the proposed zone change.
- Evergreen Fire District
  - Reason: Subject property is located within the department's jurisdiction.
- Evergreen Water and Sewer District
  - Reason: Subject property is located within the department's jurisdiction.
- Flathead County Sheriff's Department
  - Reason: Subject property is located within the department's jurisdiction.

## **III. COMMENTS RECEIVED**

### **A. Public Comments**

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment.

### **B. Agency Comments**

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Dave Prunty, Flathead County Road and Bridge Department
  - Comment: No comment.
- Glen Gray, Flathead City-County Health Department; Environmental Health Services
  - Comment: The area is served by public water and sewer provided by the Evergreen Water and Sewer District. This office has no concern with the proposed zone change.

- James Freyholtz, Montana Department of Transportation
  - Comment: No comment.

#### IV. EVALUATION OF PROPOSED AMENDMENT

##### A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have certain land uses that are allowed “by-right.” A build-out analysis is performed to examine the maximum potential impacts of full build-out of those “by-right” uses. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not “best-case” or “worst case” scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zone change to the future of the community to allow for the best possible review.

##### Current Zoning

The existing R-2 One Family Limited Residential zoning is defined as “*A district to provide for large-tract residential development. These areas will typically be found in suburban areas, generally served by either sewer or water lines.*” (Section 3.10.010 FCZR). The following uses are permitted in an R-2 zone:

1. Class A manufactured homes.
2. Day care homes.
3. Dwellings, single-family.
4. Guest houses.
5. Home occupations (See Chapter V – Performance Standards and Chapter VII – Definitions).
6. Homeowners parks and beaches.
7. Parks and publicly owned recreational facilities.
8. Public transportation shelter stations.
9. Public utility service installations. (A minimum of five feet of landscaped area shall surround such building or structure.)

The following uses are listed as conditional uses in an R-2 zone; an asterisk designates conditional uses that may be reviewed administratively:

1. Bed and breakfast establishments.
2. Cellular antennas & monopoles.
3. Cemeteries, mausoleums, columbariums, crematoriums.
4. Churches and other places of worship.
5. Community center buildings operated by a non-profit agency.
6. Community residential facilities.\*\*
7. Dwellings, cluster development (See Chapter IV – Conditional Use Standards).
8. Dwellings, family hardship.\*
9. Electrical distribution stations.
10. Golf courses.



11. Golf driving ranges.
12. Manufactured home parks.
13. Schools, primary and secondary.
14. Temporary buildings or structures.\*
15. Water and sewage treatment plants.
16. Water storage facilities.

Minimum lot size in an R-2 zone is 20,000 ft<sup>2</sup>, and the subject property is comprised of two tracts of land with a combined area of approximately 100,000 ft<sup>2</sup> designated as R-2. While the ability to reasonably develop the majority of this area is questionable due to surface water and wetland site characteristics, the area associated with the proposed zone change is comprised of approximately 26,000 ft<sup>2</sup> which appears able to be reasonably developed. The location of the developable R-2 area south of the wetland does not appear desirable for residential purposes due to proximity to the highway and adjacent commercial uses.

#### Proposed Zoning

The proposed zoning map amendment would change the zoning on certain portions of the subject property from R-2 One Family Limited Residential to B-2 General Business, defined as “*A business district to provide for those retail sales and service functions and operations that are typically characterized by outdoor display, storage, and/or sale of merchandise, by major repair of motor vehicles, and by outdoor commercial amusement and recreational activities. This district should also serve the general needs of the tourist and traveler.*” (Section 3.17.010 FCZR). The following is a list of permitted uses in a B-2 zone:

1. Accessory apartments.
2. Art foundries.
3. Automobile (new and used) and accessory sales.
4. Automobile service stations.
5. Boat sales, new and used.
6. Bus stations.
7. Car washes.
8. Cellular towers.
9. Churches and other places of worship.
10. Day care centers.
11. Farm equipment sales.
12. Financial institutions.
13. Food stores, supermarkets, and delicatessens.
14. Health clubs.
15. Hotels, motels.
16. Lodges and fraternal and social organizations, provided that any such establishment shall not be conducted primarily for gain.
17. Lumber yards, building materials; storage and sales.
18. Manufactured home sales and storage.
19. Nurseries, landscaping materials.
20. Offices.

21. Parks and publicly owned recreational facilities.
22. Public transportation shelter stations.
23. Public utility service installations. (A minimum of five feet of landscaped area shall surround such building or structure.)
24. Quasi-public buildings. (fire stations, government offices, etc.)
25. Radio and television broadcast stations.
26. Recreational facilities, high-impact.
27. Recreational facilities, low-impact.
28. Recreational vehicle parks.
29. Recycling drop-off stations.
30. Rental yards.
31. Retail sales and services.
32. Restaurants.
33. Theaters, housed in permanent indoor structures.
34. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes, and furniture in an enclosed facility.

The following uses are listed as conditional uses in a B-2 zone; an asterisk designates conditional uses that may be reviewed administratively:

1. Animal hospitals, veterinary clinics.
2. Automobile repair shops.
3. Colleges, business schools, trade schools, music conservatories, dance schools.
4. Commercial caretaker's facility in a detached accessory building in conjunction with a business.\*
5. Commercial recreation areas.
6. Convention hall facilities.
7. Electrical distribution stations.
8. Golf driving ranges and putting courses.
9. Mini-storage, RV storage.
10. Mortuaries.
11. Taverns.
12. Temporary buildings or structures.\*
13. Water storage facilities.

The bulk and dimensional standards under B-2 zoning require minimum setbacks of 20 feet from the front, 5 feet from the side, and 15 feet from the rear property boundaries for all structures. Setbacks for accessory structures differ slightly, requiring 20 foot setbacks from front and side-corner property boundaries and 5 foot setbacks from side and rear property boundaries. The front setback requirement for property abutting US Highway 2 is 30 feet because the highway is classified as a major arterial. The minimum lot width is 50 feet, the maximum allowable building height is 35 feet for all structures, and there is no limitation on permitted lot coverage.

Minimum lot size in a B-2 zone is 7,500 ft<sup>2</sup>. Approximately 16,000 ft<sup>2</sup> of the subject properties are currently zoned B-2, and the area of subject property proposed for the zone change is comprised of approximately 26,000 ft<sup>2</sup>, which combined equate to

approximately 42,000 ft<sup>2</sup> of total area which appears able to be reasonably developed for business/commercial use. Under the proposed zoning, the B-2 subject property could potentially be divided to create five lots, with each lot presumably containing one business use. As the applicant has requested the zone change with no expressed specific proposed use, anticipated potential vehicle traffic trips associated with the proposed zone change are not able to be reasonably estimated. It is reasonable to assume that an increase in commercial development/use on the subject properties would be accompanied by an increase in vehicular traffic. The potential maximum intensity of use would be limited by spatial constraints such as applicable minimum lot width and setbacks, requirements for access and parking, and provisions for water and sanitation needs.

In summary:

- The zone change request would potentially increase commercial intensity on the subject properties through either potential future division or re-configuration/expansion of existing uses;
- The map amendment would not introduce uses to the area encompassed by the zone change that differ from uses that are existing adjacent to the site and those currently allowed and existing on abutting portions of the subject properties already zoned B-2;
- The map amendment would not create non-compliance of existing structures/uses relative to the bulk and dimensional requirements for the commercially zoned and developed areas of the subject properties; and
- Impacts resulting from a hypothetical maximum build-out estimation are minimal and acceptable given the character and intent of the proposed B-2 zoning relative to the character and intent of the current B-2 zoning and the commercial character of uses established in the vicinity of the proposal and already established on-site.

**B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)**

**i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.**

The proposed zoning map amendment falls within the jurisdiction of the Kalispell City-county Master Plan Year 2010, adopted by Flathead County on February 6, 1986 by Resolution #578A. The Master Plan Map- Year 2010 is a course hand-drawn map identifying the site of the proposal as a boundary zone between *Commercial* and *Suburban Residential* designated land uses. If the requested zoning is adopted, the entire portion of the subject property accessed by an approach onto the highway would be implemented as *Commercial* through B-2 General Business zoning, and the remaining north-central portion of the subject property would remain zoned R-2 in accord with the *Suburban Residential* designation. The proposed zone change appears supported by the text of the Master Plan in that the site proposed for B-2 General Business zoning is in an already established urban area and the potential increased commercial activity would be directed toward an existing commercial area as infill development.

**Finding #1** - The proposed zoning map amendment complies with the Kalispell City-county Master Plan Year 2010, adopted on February 6, 1986 because it is supported by various text regarding commercial, residential, and agricultural land use, and is substantially compliant with the Master Plan Map- Year 2010.

**ii. Whether the proposed map amendment is designed to:**

**1. Secure safety from fire and other dangers;**

Tract 8 of the subject property has two existing approaches onto U.S. Highway 2, a divided four-lane paved highway. The property is served by the Evergreen Fire District, and the main District fire station is located approximately 1.25 miles north of the property along U.S. Highway 2. If the map amendment was approved and the property was subsequently divided into multiple tracts, each tract would have the ability for adequate all-season access onto Highway 2 via the well constructed curb-cut approaches occurring within the highway right-of-way. Although solicited, no comment was received from the fire district, presumably indicating the district has no concerns regarding the ability to serve the subject property.

**Finding #2-** The proposed map amendment would secure safety from fire and other dangers because the subject properties are located relatively close to emergency services, have direct access to a paved public highway able to accommodate vehicle ingress safely and efficiently, and because the property is located within the jurisdiction of the Evergreen Fire District for fire and medical emergency services.

**2. Promote public health, public safety, and general welfare;**

The requested zoning would permit a higher potential density and intensity of use on the subject properties than is currently permitted. The requested zone amendment to B-2 would implement the *Commercial* designation of the applicable Kalispell City-county Master Plan Year 2010, the goals and policies of which aim to promote health and general welfare.

The subject property has direct access onto a paved highway, is within a fire district providing fire and emergency medical services, and is currently served by an existing permitted individual well and septic system(Tract 8). Currently developed with two structures, the property may or may not experience additional or expanded structures. There should be no increase in fire hazard because commercial structures require compliance with the state's established building standards for fire safety, and new or expanded uses on the properties would be required to comply with applicable standards for safe vehicular ingress/egress. In the event the amendment is approved, new or expanded uses would be served by the public road, fire district, and permitted means for water and sanitation. In the case of a subsequent division of the property, Montana Department of Transportation (MDT) review of the approach(es) accessing onto U.S. Highway 2 would be required to be reviewed, further ensuring public health and safety.

**Finding #3** - A zoning map amendment on the subject property from R-2 to B-2 would not adversely impact public health, safety and general welfare because future allowable development could be adequately served by permitted means for water and sanitation, the location is served by the Evergreen Fire District, and the approaches onto U.S. Highway 2 would require compliance with applicable Montana Department of Transportation standards in the event of future division of the property.

**3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.**

- The subject properties have legal and direct access onto U.S. Highway 2, a paved state highway that accommodates existing traffic and is assumed to be able to accommodate an increase in vehicle traffic that may result from the proposed map amendment. Subsequent changes of use on the property and the approaches onto the highway will be reviewed by MDT, as applicable.
- Existing uses on the property currently use an individual well and septic system, and comment received from the Environmental Health Department indicates no concern regarding the proposed zone change, noting the property is located within the jurisdiction of the Evergreen Water and Sewer District. A telephone discussion between staff and the Evergreen Water and Sewer District clarified the presence of a sewer stub available for the property and a water main which runs adjacent to the south (front) boundary of Tract 8.
- The property is located within the Evergreen School District, and the proposed map amendment is not anticipated to have any impact on area schools or the District as the request is not for increased residential purposes and the location is not in close proximity to any schools.
- There are a multitude of public parks in proximity to the proposal site, however parks and recreation don't have bearing on the commercial nature of the Highway 2 corridor in the vicinity of the request.

**Finding #4** - The proposed zoning map amendment facilitates the adequate provision of transportation, water, sewer, schools and parks by providing for direct access onto public roads, utilizing private individual well and septic facilities, being located within and served by the Evergreen Public School District, and having access to local and state parks and recreation opportunities in the area.

**iii. In evaluating the proposed map amendment, consideration shall be given to:**

**1. The reasonable provision of adequate light and air;**

While adoption of the proposed zoning map amendment would create the potential to divide the cumulative B-2 portion of the subject properties into five 7,500 ft<sup>2</sup> tracts, that outcome is not anticipated due to practical physical constraints posed by bulk/dimensional and access/parking requirements. Current development complies with applicable bulk, dimensional

requirements of the proposed B-2 zoning, and creation of any additional lots through future division would require compliance with the bulk and dimensional and minimum lot size requirements of the proposed B-2 district. The bulk and dimensional requirements for B-2 zoning would ensure there is adequate light and air available to the subject properties and surrounding area.

**Finding #5** - The proposed zoning map amendment would provide adequate light and air to the subject properties and surrounding area because the current property improvements comply with applicable B-2 bulk and dimensional requirements which promote buffers and open area between structures and adjoining properties, and additional future development would be required to comply with those requirements as well.

**2. The effect on motorized and non-motorized transportation systems;**

The subject property requesting the zoning map amendment has two existing MDT permitted curb-cut approaches onto U.S. Highway 2, a well-lot and paved 4-lane divided highway. There is good sight distance in each direction for vehicle ingress/egress from the approaches. Comment submitted by the MDT indicates no concern regarding the proposal's potential impact on the state highway. There are currently no bicycle or pedestrian trail facilities located along U.S. Highway 2 or in the general area, on which the zoning map amendment would have an immediate impact.

**Finding #6** - The effects of the proposed map amendment on the motorized and non-motorized transportation systems will be minimal because the existing paved approaches onto U.S. Highway 2 have adequate sight distance to promote continued driver safety, and because there are no non-motorized transportation systems in the immediate area.

**3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);**

The proposal is located within an unincorporated urbanized area referred to as 'Evergreen', approximately one mile northeast of the City of Kalispell. The proposed zoning map amendment to B-2 zoning may result in a slight increase in commercial intensity and density in the form of infill development, as the proposal site is located along a commercially developed highway corridor surrounded on three sides by commercial development. The proposal appears compatible with goals and policies adopted by the City of Kalispell in the Kalispell City-county Master Plan Year 2010 as the document acknowledges the highway oriented linear strip commercial development along Highway 2 and promotes infill commercial development in existing commercial areas instead of expanding commercial development into agricultural and residential areas.

**Finding #7-** The proposed zoning map amendment would not adversely affect urban growth in the vicinity of Kalispell because the map amendment is located in an existing commercial area appropriate for infill commercial

development providing services readily accessible to travelling tourists and residents of Kalispell.

**4. The character of the district(s) and its peculiar suitability for particular uses;**

Abutting a commercial highway corridor, portions of the subject property are currently zoned B-2 and those areas are commercially developed. The area proposed for a B-2 zoning use district would be an extension of the portion of the subject properties already zoned B-2 and appear suitable for commercial uses. Developed areas directly adjacent to the site are zoned B-2 and B-3, and have developed commercial uses appearing to have equal or more intensity than the subject properties in terms of lot coverage and vehicle traffic trips. Adjacent R-2 areas would continue to be buffered from non-compatible commercial elements by the substantially undeveloped riparian area located in the north-central R-2 zoned portion of Tract 8 of the subject property. As the property is currently developed in compliance with the permitted uses and bulk and dimensional requirements allowable under the proposed B-2 zoning, the proposed zoning amendment appears suitable for the subject property.

**Finding #8** –The proposed zoning map amendment would be suitable for the subject property because the permitted uses and general characteristics of the proposed B-2 General Business zoning designation are equivalent to the existing B-2 General Business zoning currently implemented in the surrounding area, and the character of the district would not change in response to development afforded by the requested zoning map amendment.

**5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The subject property is currently developed with two structures, one of which (south-most) is actively used for commercial purposes while the other (north-most) appears unfinished and vacant. The remainder of the property is undeveloped riparian/wetland area.

The zoning map amendment would encourage development of the unfinished north-most structure located on Tract 8 to be completed, allowing the structure to be used for a productive commercial purpose if it was related to the principal use on the property, thus conserving the value of the building. The zoning map amendment would allow the commercial use of a developable unused portion of the property which is connected and similar to the portion of property currently zoned B-2 and which is accessible only from the approaches onto U.S. Highway 2, thus encouraging the most appropriate use of land on-site within the district.

**Finding #9** - The zoning map amendment would conserve the value of buildings and encourage the most appropriate use of land on-site within the zoning district because it would allow developable area abutting less developable riparian/wetland area and containing an unfinished structure to be

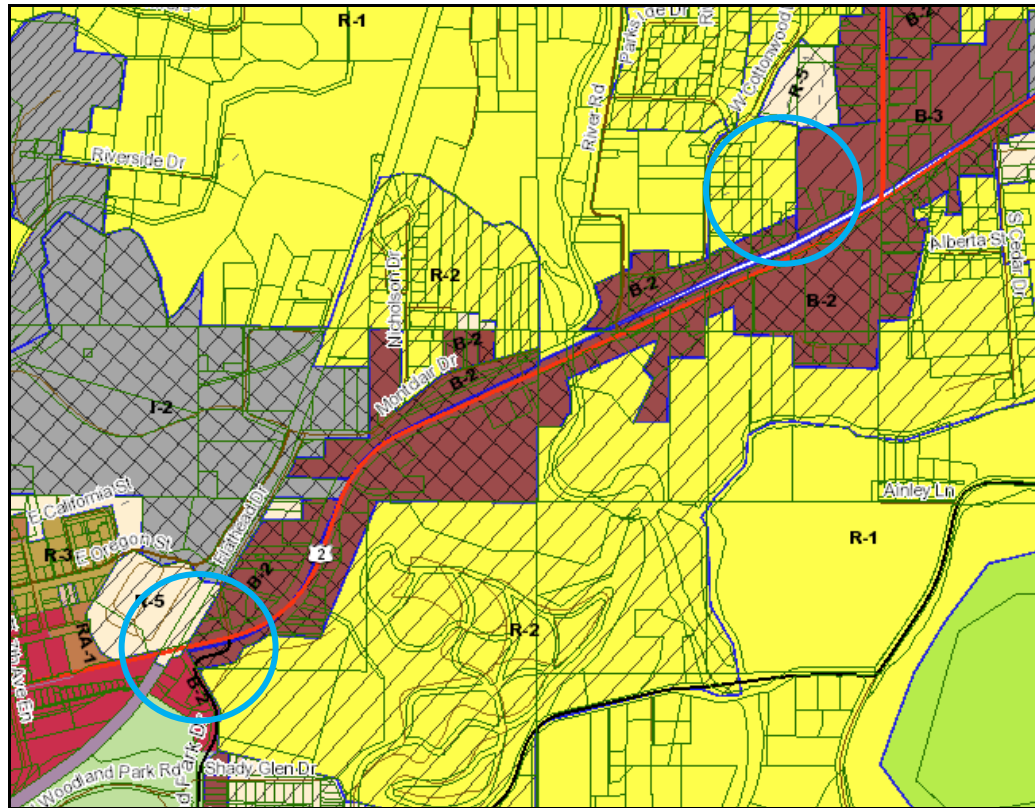


used for productive commercial purposes in a similar manner to uses on adjacent properties.

**iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.**

The nearest municipality (1+ mile distant from the subject property) is the City of Kalispell, which is a separate jurisdiction from the County and governed by a separate set of zoning regulations. The proposal would expand the physical scope of the existing B-2 zoning use district on the subject properties, and the existing B-2 zoning use district is a contiguous highway oriented linear commercial zoning district that extends westward from the proposal location to a point of intersection with the jurisdictional boundary of the City of Kalispell, where the city's applicable zoning is also B-2 (refer to Figure 5).

**Figure 5:** Site of proposed B-2 zoning and intersection of County's B-2 district with Kalispell's B-2 district circled in blue.



**Finding #10 -** The zoning regulations of the proposed map amendment would be compatible with the zoning ordinances of the City of Kalispell because the B-2 zoning use district extends westward from the proposal location to a point where it abuts the City's jurisdiction at a location similarly zoned B-2 by the City of Kalispell.

## **V. SUMMARY OF FINDINGS**

1. The proposed zoning map amendment complies with the Kalispell City-county Master Plan Year 2010, adopted on February 6, 1986 because it is supported by various text regarding commercial, residential, and agricultural land use, and is substantially compliant with the Master Plan Map- Year 2010.
2. The proposed map amendment would secure safety from fire and other dangers because the subject properties are located relatively close to emergency services, have direct access to a paved public highway able to accommodate vehicle ingress safely and efficiently, and because the property is located within the jurisdiction of the Evergreen Fire District for fire and medical emergency services.
3. A zoning map amendment on the subject property from R-2 to B-2 would not adversely impact public health, safety and general welfare because future allowable development could be adequately served by permitted means for water and sanitation, the location is served by the Evergreen Fire District, and the approaches onto U.S. Highway 2 would require compliance with applicable Montana Department of Transportation standards in the event of future division of the property.
4. The proposed zoning map amendment facilitates the adequate provision of transportation, water, sewer, schools and parks by providing for direct access onto public roads, utilizing private individual well and septic facilities, being located within and served by the Evergreen Public School District, and having access to local and state parks and recreation opportunities in the area.
5. The proposed zoning map amendment would provide adequate light and air to the subject properties and surrounding area because the current property improvements comply with applicable B-2 bulk and dimensional requirements which promote buffers and open area between structures and adjoining properties, and additional future development would be required to comply with those requirements as well.
6. The effects of the proposed map amendment on the motorized and non-motorized transportation systems will be minimal because the existing paved approaches onto U.S. Highway 2 have adequate sight distance to promote continued driver safety, and because there are no non-motorized transportation systems in the immediate area.
7. The proposed zoning map amendment would not adversely affect urban growth in the vicinity of Kalispell because the map amendment is located in an existing commercial area appropriate for infill commercial development providing services readily accessible to travelling tourists and residents of Kalispell.
8. The proposed zoning map amendment would be suitable for the subject property because the permitted uses and general characteristics of the proposed B-2 General Business zoning designation are equivalent to the existing B-2 General Business zoning currently implemented in the surrounding area, and the character of the district would not change in response to development afforded by the requested zoning map amendment.
9. The zoning map amendment would conserve the value of buildings and encourage the most appropriate use of land on-site within the zoning district because it would allow developable area abutting less developable riparian/wetland area and containing an

unfinished structure to be used for productive commercial purposes in a similar manner to uses on adjacent properties.

10. The zoning regulations of the proposed map amendment would be compatible with the zoning ordinances of the City of Kalispell because the B-2 zoning use district extends westward from the proposal location to a point where it abuts the City's jurisdiction at a location similarly zoned B-2 by the City of Kalispell.

## **VI. RECOMMENDATION**

Based on the review of the statutory criteria used to evaluate zoning map amendments, staff recommends the Flathead County Planning Board adopt staff report FZC-10-06 as Findings of Fact and forward a recommendation of approval to the County Commissioners for a zoning map amendment on the 0.59-acre portion of the subject properties in the Evergreen Zoning District, from R-2 One Family Limited Residential to B-2 General Business.